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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,401	03/09/2004	Michael Cafaro	HEL177/4-11US	9021

21586 7590 06/29/2005

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EXAMINER	
LU, JIPING	

ART UNIT	PAPER NUMBER
3749	

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/796,401	CAFARO, MICHAEL
	Examiner	Art Unit
	Jiping Lu	3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 April 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 10, 14, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris et al. (U. S. Pat. 6,393,718).

Harris et al show a hair dryer 10 with an ion emitter 23 to direct negative ions onto the hair of a user during use, the quantity of ion flow may be adjusted by the user (via switch 5) and a visual indicator light 6a for indicating the ion level (i.e. with or without ion) which are arranged same as the applicant's.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-9 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al (U. S. Pat. 6,393,718) alone or further in view of Takizawa et al (U. S. Pat. 6,792,692).

Harris et al show a hair dryer 10 with a housing 1, a heating element 16, a fan 17, heated air outlet 11, an ion emitter device 23, an ion generator 20 for positive and negative ions, a variable output regulator 5 and a indicator light 6a which are arranged same as the applicant's. To provide Harris with a plurality of indicator lights would have been obvious in order to obtain multiplied effects. The Takizawa et al show a plurality of indicator lights 24, 25 responsive to the level of operation. Therefore, it would have been obvious to one having ordinary in the art at the time the invention was made to provide Harris with a plurality of indicator lights and LED displays 22-25 as taught by Takizawa et in order to obtain multiplied effects. For claim 5, see elements 11a, 14, 20-24 for adjustable ion generator outputs. With regard to the claimed neon lights and colored lights and colored windows, it would have been an obvious matter of design choice to design the lights and windows with any desired type and color in order to obtain the optimum result since applicant has not disclosed that the claimed neon lights and the color of the lights and window solve any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill in the art.

Response to Arguments

5. Applicant's arguments filed 4/11/2005 have been fully considered but they are not persuasive to overcome the rejection as stated in the last office action. First, un-amended broad claims failed to structurally define over the prior art references. Each and every element is

clearly shown by the references. The examiner invites the applicant to point out from the claims if there is any claimed structural element is not shown or taught by the references. Second, The applicant argues that the patent to Harris et al USP 6393718 does not show "the ion level adjustable or indicated by the indicator light 6a" (page 2, lines 10 of the Remarks). Nowhere in broad claim 10 calls for any "ion level adjustable or indicated by the indicator light". The applicant is arguing something NOT in the claim. Claim 10 merely calls for "the quantity of ion flow may be adjusted" without any structure or means recited to perform such claimed function and desired results. Moreover, the claim language "may be adjusted" is interpreted as a probability that such function may or may not happen. Therefore, the examiner has interpreted that the on-off switch 5, 25, 26 of Harris et al is capable of adjusting ion flow quantity when it is on. Conversely, when the switch is off, then, the ion flow quantity is adjusted to zero. With regard to claimed "visual indicator of ion level", again it is the examiner's interpretation that the light 6, 6a will show the ion level is adjusted from on or off. Conversely, when the switch 6 is off, then, the ion flow quantity is adjusted to zero. It is also noted that the broad claim 10 only requires an ion emitter and a visual indicator of ion level. These claimed structures are clearly shown by the prior art patent to Harris. Third, the applicant argues that the ion flow adjustment device 60 controls ion generator 80 and is separated from the fan speed and heat adjustment devices. All of these elements are missing from Harris patent. However, these alleged missing elements are also missing from broad claim 10. In performing patent application examination, the examiner considers only what is being claimed. Disclosed features not claimed are not part of the claims. Finally, the applicant argues that the combination of prior art patents is not sufficient to support the rejection under 35 USC 103 due to the missing elements and lack of

suggestion. The examiner disagrees in view of the broad claims presented. The patent to Harris et al shows a hair dryer 10, a housing 1, a heating element 16, a fan 17, heated air outlet 11, an ion emitter device 23, an ion generator 20 for positive and negative ions, a variable output regulator 5 and a indicator light 6a which are arranged same as the applicant's. It is the examiner's position to provide Harris with a plurality of indicator lights would have been obvious in order to obtain multiplied effects. The patent to Takizawa et al shows a plurality of LED indicator lights 24, 25 responsive to the level of operation. Again it is the examiner's position that in view of the combined teachings of the references it would have been obvious for skilled in the art to derive the broadly claimed invention by providing Harris with a plurality of indicator lights and LED displays 22-25 as taught by Takizawa et al.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 571 272 4878. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 571 272-4877. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jiping Lu
Primary Examiner
Art Unit 3749

J. L.